IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Bail Appl..No. 5293 of 2007()

CRIME NO.131/07 OF PANDIKKAD POLICE STATION

PETITIONER : ACCUSED 3-5:

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1. NIZAR, S/O.YAKOOB,
   MANJARAKKADAN HOUSE, CHEMBRASSERY P.O.,
   PANDIKKAD.

2. REYAZ, S/O.ALAVI, MANJARAKKADAN HOUSE, ~
   VELLUVANGAD P.O., PANDIKKAD.

3. SALI, S/O.PULIYODAN ALAVI,
   PULIYODAN, CHEMBRASSERY P.O., PANDIKKAD.

4. HYDERALI, S/O.AHAMMADKUTTY
   KOROMBATH HOUSE, CHEMBRASSERY P.O., PANDIKKAD.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: COMPLAINANT/STATE:

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1. STATE OF KERALA REPRESENTED BY
   PUBLIC PROSECUTOR HIGH COURT OF KERALA,
   ERNAKULAM.

2. STATION HOUSE OFFICER,
   PANDIKKAD POLICE STATION, MALAPPURAM DISTRICT.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5293 of 2007

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Dated this the 10th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1,5, 3 and 4 respectively. They face allegations, inter alia, under Sections 452 and 324 I.P.C. Altogether there are five accused persons. The crux of the allegations against the petitioners is that they, on account of prior animosity arising out of the seizure of a vehicle consequent to default in payment of instalments by a Finance Company, trespassed into the office of the Finance company and indulged in wanton acts of violence and mischief. The alleged incident took place on 20.8.2007. Crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the allegations raised are totally false and unsustainable. There was unjustified high handed taking away of a vehicle. For discussions in connection with that the owner of the vehicle along with others had gone to the office of the finance company. There was exchange of

words. Fanciful allegations are now being raised to vex and harass the petitioners. In these circumstances it is prayed that anticipatory bail may be granted to the petitioners.

3. Notice was given to the learned Prosecutor. The learned Prosecutor fairly submits that though there is an allegation of injury suffered by the victims no medical evidence whatsoever is available. He submits that there has been indications available at the scene of the crime to suggest that an incident as alleged had taken place. The learned Prosecutor, in these circumstances, submits that anticipatory bail may not be granted to the petitioners.

4. Having considered all the relevant inputs, notwithstanding the opposition raised by the learned Prosecutor, I am satisfied that this is a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioners.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 17.9.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/-

(Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 18.9.07 and 19.9.2007 and thereafter shall appear on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 17.9.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(b) If the petitioners were arrested prior to their surrender on 17.9.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 17.9.2007.

(R. BASANT)
Judge

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